SOME NEW BOOKS.

Some Victorian Lord Chancellors.

An interesting and by no means unimportant contribution to our knowledge of the administration of equity jurisprudence in England during the last half of the nineteenth century will be found embodied in the second volume of the work entitled *The Victorian Chancellors*, by J. B. ATLAY (Little, Brown & Co.). This volume contains biographical sketches and professional estimates of no fewer than ten Chancellors, namely, Lord St. Leonards, Lord Cranworth, Lord Chelmsford, Lord Campbell, Lord Westbury, Lord Cairns, Lord Hatherley, Lord Selborne, Lord Halsbury and Lord Herschell. The author of the book tells us that the material available for the memoirs here presented varies greatly, both in quality and quantity. No biographer has as yet appeared for Lord St. Leonards or Lord Cranworth, and the sources of information with regard to the latter especially are scanty. In the case of Lord Chelmsford the compiler has been more fortunate, because the subject of the memoir left behind him an autobiography, which not only gives an outline of his private and professional career but also the details of the more celebrated cases in which he was engaged when at the bar. The "Life of Lord Campbell," consisting of selections from his autobiography, diary and letters, which in 1881 was brought out by his daughter, the Hon. Mrs. Hardcastle, has proved to be a mine of data with reference not only to the Chancellor himself but also to the legal and political history of his time. The "Life of Lord Westbury," by Mr. T. A. Nash, published in 1888, is also declared to be a biography of high merit, alike in form and substance. It seems to have been undertaken at the request of members of the Chancellor's family, and the author of the present work regrets that he has found himself unable to take an equally favorable view of one who in point of sheer intellect was excelled by none of the Victorian Chancellors. As regards Hugh McCalmont, first Earl Cairns, the author has been thrown back almost entirely on the public annals of the time, save for a brief appreciation, not always sympathetic, from the pen of the Right Hon. James Bryce. The "Memoir of Lord Hatherley," by the late Dean of Winchester, contains a valuable fragment of autobiography written in 1863, but otherwise is devoted almost wholly to the religious and philanthropic side of the subject's career. The four volumes of Lord Selborne's "Memorials" contain, on the other hand, a vast mass of miscellaneous information, and are distinguished alike by generosity of tone and felicity of portraiture. The difficulty of treating adequately the lives of Lord Halsbury and Lord Herschell, who died so recently, is patent, but without some account of them the present work would obviously be imperfect.

I.

Edward Burtenshaw Sugden (ultimately Lord St. Leonards), was born in Duke street, Westminster, on February 12, 1781, and lived to be almost ninety-four years old. Like the father of the first Lord Tenterden, the elder Sugden was a hairdresser. Concerning the boy Edward's early years and education little is known, but his father is reported to have told Mr. Selwyn, K. C.: "I tried my son Ned in my own profession, but unfortunately he has no genius for it, so I have been obliged to put him as a pupil with Mr. Duval, the conveyancer." It is certain that "Ned" never showed any disposition to be ashamed of his origin. When on the Cambridge hustings, after he had attained the highest honors of his profession, he was twitted amid cries of "soap" and "lather," with being the son of a barber, he answered: "Yes, but if you had been the son of a barber you would have been a barber yourself for the rest of your days." In 1802 Edward Sugden was admitted a student of Lincoln's Inn, but he did not enter upon independent practice at the Chancery bar until 1807. From the day of his call Sugden, who already had published a number of noteworthy legal treatises, sprang at a bound into rivalry with the most eminent conveyancing counsel. By his very first appearance in court before the Master of the Rolls his reputation was made, and as early as 1817 he was in enjoyment of a commanding practice at the Chancery bar. For many years his professional income seldom fell below $75,000 a year. So much respect was paid to his learning that when he was 36 years old the Lord Chancellor of the moment paid him the unprecedented compliment of asking him into his private room to consult him about a knotty question which had arisen over a case in which he was not retained.

The fortune which had attended him from the start at the bar did not follow him at first in political life. In 1818 he was put forward for Sussex, but the first day's polling left him in so hopeless a minority that he withdrew from the contest. Eight years later he stood for Shoreham and again found himself at the bottom of the poll. In 1828 he was elected, after a severe and expensive contest, for the borough of Weymouth and Melcombe Regis, which then shared with the city of London the distinction of being represented in Parliament by four members. Although, however, Sugden had entered the House of Commons with a definite object in view he did not allow his professional work to suffer by it, and his labors were almost beyond human endurance. In June, 1829, he was appointed Solicitor-General amid a chorus of approval, both from the Chancery bar, glad to see Equity represented among the law officers, and from the public at large. Sugden was elected again for Weymouth at the general election of 1830, but on the resignation of his colleagues in the following November he went back to his private practice at the bar. After Brougham succeeded Lyndhurst as Lord Chancellor there were many passages at arms between the former and Sugden, now Sir Edward, who had long been the leader of the Equity bar. Familiar is Sugden's bitter saying that if Brougham knew a little law he would know a little of everything. In spite, however, of the long continuance of their acrimonious relations Brougham communicated to Sugden through Lord Lyndhurst an offer to make the former a Baron of the Exchequer, a Privy Councillor and Deputy Speaker of the House of Lords. Sugden refused the offer, but a little later the two were reconciled, just before Sugden accepted the appointment of Lord Chancellor for Ireland, a position which he held, however, for only a few months in 1835. Two years later he reentered the House of Commons and on the formation of Sir Robert Peel's second Ministry in 1841 he was restored to his old place of Lord Chancellor for Ireland, which he now retained until Peel's overthrow in July, 1846.

In 1852, when Lord Derby formed his first Ministry, Sir Edward Sugden took his seat in the House of Lords as Baron St. Leonards and Lord High Chancellor. No man was ever better fitted for the post of which he now became the occupant. In the first appeal that came before him in the House of Lords he construed a most obscurely worded will in an extempore speech which fills twenty pages of the printed report. And although the defects of his temper rendered him sometimes a difficult colleague, he continued for long years after his retirement from official life to lend strength to the judicial proceedings of that assembly. On Lord Derby's resumption of office in 1858 the office of Lord Chancellor was again offered to St. Leonards, but he declined it on the ground that age forbade him again to occupy the woolsack. The failure to secure the services of Lord St. Leonards caused the greatest surprise and regret to the public, legal and general. Lord St. Leonards was last seen at a public function in 1872, when as High Steward of Thames Ditton he rode on horseback at the head of a procession to commemorate the freeing of the bridge across the Thames. He had preserved his vigor and vitality to an extraordinary degree, and after he had become a nonagenarian he would vault the gates in his grounds rather than allow the bailiff to open them for him. He died at his country place, Boyle Farm, in June, 1875, the Nestor of the profession," who, to use the phrase of Sir Alexander Cockburn, "had done more to teach the law and improve the law than any man of the age."

II.

Robert Monsey Rolfe, who was to be Lord Cranworth, was born in December, 1790, at Cranworth, near Thetford. His father held the perpetual curacy of Cranworth, in conjunction with the rectory of Cockley Clay, near Swaffham. The boy's grandfather, his great-grandfather and one of his uncles had also been in holy orders. Robert Rolfe received his early education at the grammar school of Bury St. Edmunds, whence in 1803 he was transferred to Winchester College. In due course he became a prefect at that school and in 1808 entered Trinity College, Cambridge, where he had a career of considerable distinction. In 1812 he was admitted at Lincoln's Inn, and was called to the Chancery bar in 1816. For a time he was unsuccessful in attracting briefs, but eventually amassed a good junior business in Chancery, while his appointment as Recorder of Bury St. Edmunds kept him in touch with the Norfolk circuit, which he had joined on his call to the bar. In the spring of 1831 he tried to enter the House of Commons but failed, but in the following December, at the first election after the reform bill, he was returned for Penryn and Falmouth, a constituency which remained faithful to him during the seven years of his Parliamentary life.

Rolfe was not destined to cut a conspicuous figure in the House of Commons, and it was with a feeling akin to amazement that in September, 1834, the public learned of his appointment as Solicitor-General. The Government never dreamed of utilizing him in the day of battle, and perhaps it was in order to fill his place with a more efficient debater that in October, 1839, after nearly five years of office, Sir Monsey Rolfe was made a Baron of the Exchequer. Many years afterward he wrote in self-depreciatory terms to Lord Chief Justice Campbell: "When I first came on the bench I was entirely ignorant of the practice, but somehow one picks it up and no real difficulties occur." Rolfe sat in the Exchequer for over ten years, and it turned out that he possessed in a marked degree the qualities which contribute to judicial excellence—firmness, soberness, patience and dignity. He had a wide and exact knowledge of legal decisions and was keenly apprehensive of the value and weight of scattered pieces of evidence. For the first time in his life Rolfe now tasted the sweets of fame and popularity and his fortunes, which had been somewhat stagnant since his elevation to the Solicitor-Generalship fifteen years earlier, were now to undergo a sudden change. In the summer of 1850 he was transferred from the Exchequer to the Vice-Chancellor's Court, and as an earnest of the future he was created a peer under the title of Baron Cranworth of Cranworth. Under the circumstances this was an unprecedented distinction, but Rolfe's great personal popularity disarmed all jealousy or cavilling.

In December, 1852, the coalition Government of Lord Aberdeen was formed and Lord Cranworth received the Great Seal. His promotion was universally applauded, for he had gained greatly in reputation during his short apprenticeship as Vice-Chancellor. Mr. Atlay recalls that his decisions in chancery rank very high among lawyers and his judgments are conspicuous for their precision of language. He made a courteous, dignified and impartial Speaker of the House of Lords, but long absence from Parliament had naturally not rendered him any more effective in debate than he was when he quitted the Commons. His most conspicuous failure, however, came about over the attempted creation of life peers. Palmerston, who succeeded Lord Aberdeen in 1855, appointed two law lords for life. The suggestion of this appointment has commonly been fathered upon Cranworth, who under Palmerston retained the place of Lord Chancellor. It devolved upon him to defend the patent of one of these law lords, but though he stuck bravely to his guns the result was fatal to the attempted creation and distinctly damaging to his own position as head of the law. The passage of the Divorce and Matrimonial Causes act, which was carried through the House of Lords by a majority of only two votes, was credited largely to the tact and pertinacity with which it was upheld by the Lord Chancellor. In February, 1858, Lord Palmerston was driven from office, the victim of Orsini and of the French Colonels, and on his return to office in June, 1859, he chose Campbell as his Chancellor. Why Cranworth was passed over, Lord Selborne could never understand. Our author thinks the mystery will not seem so great when we consider that with occasional exceptions he had been a hindrance rather than a help to his party in the debate.

After his retirement from the Chancellorship in 1859 Lord Cranworth's leisure was mainly passed at his seat at Holwood Park, a house famous as having been once the abode of the younger Pitt. For Cranworth, however, fortune's wheel had not concluded its full revolution. In July, 1865, when under painful circumstances Lord Westbury resigned the Great Seal, Palmerston without delay or hesitation asked Cranworth, then in his seventy-fifth year, to resume it. His satisfaction at the reinstatement was enhanced by the cordiality of his reception among old friends, but one congratulation, though well meant, was somewhat maladroit: "Well, Cranny, Kingsley is right; it is better to be good than clever." Cranworth's final tenure of office, however, was short and uneventful. When Lord Russell, who succeeded Palmerston, resigned in 1866 Cranworth withdrew with him definitely into private life, though to the end he continued to do his judicial work in the House of Lords. He spoke there for the last time on July 20, 1868, and died six days later. Of him Lord Selborne has testified that "take him for all in all he was one of the best Chancellors I have known. Others had more splendid gifts, but in steady good sense, judicial patience, impartiality and freedom from prejudice he was surpassed by none."

III.

We have seen that Lord St. Leonards was the son of a barber. Frederick Thesiger, first Baron Chelmsford, was the grandson of an emigrant from Germany, whose wife received from the Marquess of Rockingham the sinecure of the housekeepership of the Excise Office in Broad street, London. When Frederick was beginning to make his way in the world it used to be whispered that his grandmother had been a housekeeper. The reminiscence was unfair, for the young man's uncle, Sir Frederick Thesiger, had been an Admiral, and his father had been Secretary to Admiral Bentinck, Governor of St. Vincent. The future Lord High Chancellor himself at the age of 12 was sent to a naval academy, and in the following year entered the navy as a midshipman and smelled powder with the expedition under Cathcart which seized the revived Danish fleet in 1807. On the death of his elder brother, however, he was taken out of the navy, and after spending a couple of years in a private school prepared to assume the management of the paternal plantation in St. Vincent and to combine that vocation with a practice at the West Indian bar. Subsequently he obtained his father's permission to try his luck at the English bar, and he was called in November, 1818. His rise in his profession was not notably swift, but in 1834, being then 40 years of age, Thesiger was made a King's Counsel by Lord Brougham.

Throughout the years of political excitement which followed the great reform bill he enjoyed a lucrative practice before committees in the House of Commons. In addition to great industry and a vigorous and logical understanding Thesiger was endowed with physical gifts which were denied to many of his competitors. Standing over six feet high, of a muscular and manly build, and possessed of a handsome and vivacious countenance, animated also in his gestures, he quickly gave juries a prepossession in favor of his client. Carefully eschewing any pretence of eloquence, he would put his points plainly and forcibly to the court or talk to a jury in a sort of homely chit-chat which robbed them of all suspicion. He possessed a gift of narration which seemed to render comment superfluous, and he was particularly adroit at examination in chief, taking the witness by the hand and conducting him through his story without allowing him to drop anything by the way. His high sense of honor, courteous bearing and kindness of heart made him justly popular among his brethren of the bar. His love of a joke was irrepressible. "Halloó!" called out a man in the robing room, "whose castor is this?"—for in those days beaver had not been replaced by silk. "Pollux [Pollock's] of course," was Thesiger's instantaneous rejoinder. Another of his humorous remarks is reproduced in the book before us. In a town on the home circuit the High Sheriff for the year, though a young man, happened to be afflicted with a bulbous nose that "flamed in the forehead of the morning sky." Somebody in Thesiger's hearing observed that it was nothing to the nasal organ by which the Sheriff's father had been distinguished. "Ah, I see," said Thesiger, "damnosa hereditas."

Thesiger's first attempt to enter Parliament, made in 1839, was unsuccessful, but in the following year he obtained a seat for Woodstock, which he occupied until his appointment as Solicitor-General in 1844. In the following year Thesiger, now become Sir Frederick, became Attorney-General in Sir Robert Peel's last Ministry, and in 1852 resumed that place in the Administration formed by Lord Derby. Two years later he refused the offer of a puisne Judgeship, and it proved fortunate that he had done so, for in 1858, when Lord Derby again formed a Government, he received the Great Seal, with the title of Baron Chelmsford. His want of acquaintance with the practical work of the Equity side was a grave disadvantage to him as a Chancery Judge, but his industry, his native acumen and his resolve to do justice were as conspicuous on the bench as at the bar. He devoted his vacations and such time as he could spare during terms to a severe course of reading in the reports and text books, and in his autobiography he recalls with satisfaction that during his first tenure of office only two of his decrees were reversed. "He performed his part in the Court of Chancery as well as most common law Chancellors," is the moderate encomium of Lord Selborne, "and there, as everywhere else, his tact, kindliness and courtesy made him popular." When Lord Derby again became Prime Minister in 1866 Chelmsford returned to the woolsack, and his second tenure of office lasted for rather more than eighteen months. The sunset of the Chancellor's life—he passed away in 1878 at the age of 84—was brightened by the conspicuously rapid rise of his third son, Alfred, who after a short period of extraordinary success in his father's profession was made in 1877 a Lord Justice of Appeal straight from the bar, at the age of 39.

IV.

John, Baron Campbell, the son of a minister of the Kirk of Scotland, was born in 1779. At the age of seven he began his education at the grammar school of his native town and four years later entered St. Andrews University. At the age of fifteen he obtained the degree of A. M. He was destined for the ministry and proceeded to study theology at a divinity hall, but in his eighteenth year he received the offer of a private tutorship in London, which he accepted. After spending two years as "bear leader," he became a Parliamentary reporter on the *Morning Chronicle*, and when Parliament was not sitting he read law. In 1806 he became a barrister of Lincoln's Inn. Retainers came very slowly for a time, but by 1814 he was able to reckon on his professional income at little short of £2,000. Our author tells us that the letters and fragments of autobiography which cover Campbell's career on the Oxford Circuit provide the raciest reading. There is no other such chronicle of the ups and downs, the hopes and fears of a fighting barrister. It cannot be said that the candor of the disclosures is always in the writer's favor. Warm hearted and affectionate as he was in domestic relations, there is in his allusions to professional rivals a selfishness, a desperate eagerness to push to the front and a perpetual air of calculation which leave an unpleasant taste behind. In view of his own confessions, it is difficult to imagine that "Jock" Campbell could have been overpopular among his messmates.

In 1821 he married a daughter of James Scarlett, afterward Lord Abinger, and thenceforward swam in the full stream of prosperity. The Scarlett connection gave him the entrée into the best Whig society, and the time had now arrived when a seat in Parliament would be a help rather than a hindrance. At the general election of 1826 he was an unsuccessful Whig candidate for Stafford, but in 1830 he obtained a seat for that borough and being a Whig entered Parliament at precisely the right moment. He did good service in the House against the phalanx of Tory lawyers, and in 1823 was appointed Solicitor-General. His professional business was now nearly equal to Scarlett's and much greater than that of any other man at the common law bar. He continued to be as indefatigable in Parliament as in court, and in 1834 he, as Sir John Campbell, became Attorney-General. He went out of office with his party in November of the year named, but it was an ill wind indeed that brought Campbell no luck. His father-in-law, Scarlett, now succeeded Lyndhurst as Chief Baron, thus relieving him from his most formidable rival at the bar. The resignation of Sir Robert Peel restored him to his old position as Attorney-General, and to console him for his failure to obtain the Mastership of the Rolls his wife, Lady Campbell, was gazetted Baroness Stratheden.

Campbell's last years at the bar passed smoothly and prosperously, but they came to an end in 1841, when he was appointed Lord Chancellor of Ireland, taking at the same time the title of Baron Campbell of St. Andrews. He retained the office, however, only for some weeks, owing to Lord Melbourne's resignation.

During the comparative leisure that followed he undertook and completed down to 1689 his "Lives of the Chancellors." From the moment of its appearance in print the success of this work was unmistakable. The first edition, published in three thick octavo volumes, was subscribed for by the trade before publication, and a second edition of 2,000 went off with the greatest celerity. In 1846 appeared the second series, carrying the narrative to the death of Lord Thurlow; and the third, published in 1847, contained three additional biographies. Then turning to the Chief Justices of the King's Bench, and working with the same extraordinary rapidity, he had by the end of 1849 completed his second task as far as the resignation of Lord Mansfield. After that date his leisure was brought to a sudden termination, and the final volume of the "Lives of the Chief Justices" was delayed until 1857. The only other literary achievement of Lord Campbell was a little treatise published in 1859 on "Shakespeare's Legal Attainments," which converted Macaulay, among others, to the belief that the Swan of Avon must have been at some time or other the occupant of a desk in an attorney's office. As for the "Lives of the Chancellors" and "Lives of the Chief Justices," they have been classed in recent times among "the most censurable publications in our literature," yet though riddled with criticism and adding, as was said by contemporaries, a new terror to death, they still remain a classic. His works indisputably form an indispensable part of every lawyer's library, and they remain to this day eminently readable. One of the gravest blots on his literary 'scutcheon is the carping, sneering tone which he employs toward those who had fallen short of his own measure of success. He inherited Mrs. Candour's art of tearing the characters of friends to pieces with the utmost kindness. As a matter of fact, Campbell owed everything to the bar—his title, his wealth, his fame, yet he speaks of his own profession in language of constant and almost systematic disparagement.

In July, 1846, Lord John Russell on his accession to the Premiership offered Campbell the Chancellorship of the Duchy of Lancaster, with a seat in the Cabinet, and in March, 1850, appointed him Chief Justice of England. At this date, although past his seventieth birthday, Lord Campbell was still in his prime, mentally and physically. "Thickset as a navvy, as hard as nails," was the graphic description of him given by Fitzjames Stephen in 1854. Shortly before his death Lord Campbell recounted that he had never lost a tooth and hoped the fact would be engraved upon his tombstone. No sooner did he take his seat on the Queen's Bench as the chief law officer of the Crown than he showed complete mastery of his work, and the industry to which he had owed so much of his success at the bar did not desert him now. Lord St. Leonards has declared that Lord Campbell brought to his task on the Queen's Bench a general knowledge of the common law which probably has never been surpassed. Moreover, long experience at the bar had taught him the secret of managing juries, and, more fortunate than some other eminent advocates, he did not lose the gift on the bench. However impatient and overbearing he might show himself to counsel, he always treated juries with an irresistible combination of suavity and firmness.

When Lord Palmerston undertook the formation of his last Ministry, in June, 1859, the disposal of the Chancellorship gave him a good deal of trouble, and it was finally decided to offer the place to the Lord Chief Justice. Our author thinks there can be no doubt that for the first time in his life Campbell was astonished at his good fortune. He anticipated when Palmerston sent for him that the Prime Minister wished to consult him about the new Solicitor-General. To undertake at a moment's notice the administration of a new branch of the law with which he had very little practical acquaintance was a startling proposal to make to a man of eighty. With a just reliance on his own great powers, however, Campbell accepted the offer without hesitation. He held the office of Chancellor for a little under two years, but though he was declared by Lord St. Leonards to have maintained in Lincoln's Inn the great reputation which he had acquired as a common law Judge he left little mark in the Court of Chancery. In another branch of his judicial duties, the appellate jurisdiction of the House of Lords, he is admitted on all hands to have been entitled to unstinted praise.

V.

Some seventy pages of this volume are devoted to Richard Bethel, ultimately Lord Westbury, who was born in June, 1800, at Bradford-on-Avon, where his father was a medical practitioner. There was but little money in the household to spare on education, but Dr. Bethel, who had early detected the extraordinary promise of his son, gave him the best that was in his power. The boy received a sound classical grounding at a private school in Bristol, and in 1814 his father took him up to Wadham College, Oxford, which had close associations with the west of England. The warden at first pointed out that children were not admitted, and it was only after some conversation with the precocious youth that he withdrew the veto, remarking, "The first thing we must do is to get you a tail coat." A day or two later Richard Bethel matriculated as a commoner of Wadham, and although too young to take the oath of obedience he was allowed to subscribe the Thirty-nine Articles. In the following year he won a scholarship, to which was added the Hody exhibition for proficiency in Greek. Our author says that with two exceptions Bethel's achievement is in the matter of age unique among men who have achieved distinction in after life. His total emoluments from the college seem to have amounted to about £70 a year, and in his fourth year, while still an undergraduate, he began to take private pupils. He once told Kinglake that after the age of 17 he had never cost his father a penny, and indeed was able, though at the cost of much self-denial, to assist his parents. It was while at college that he acquired the habit of early rising which never forsook him and the importance of which he never ceased to impress upon young men at the bar. As on April 8, 1818, he was placed in the first class in classics and in the second class in mathematics his fellow undergraduates of Wadham carried the boy scholar shoulder high around the quadrangle. He took his B. A. degree a few weeks before his eighteenth birthday. For the next four years, in the course of which he won the Vinerian law scholarship, he stayed up at Oxford taking pupils, and in 1822 he was elected to a fellowship of Wadham. Bethel cherished no very high respect for the narrow Oxford curriculum of his day, but in spite of all his protestations against the ancient system he could never conquer or disguise a feeling of contempt for those who had missed a classical training. "I owe all my success in life," he once told a Baliol breakfast party, "to Aristotle's Rhetoric."

His fellowship enabled Bethel to depart for London and begin his law studies in earnest at the Middle Temple, by which society he was called to the bar in November, 1823. In his first year as a barrister Bethel made 100 guineas, a sum which soon bade fair to advance in arithmetical progression. The story of his first great stride to the front has often been told. Brasenose College had found itself involved in a lawsuit which threatened a severe reduction of its revenues. It retained Bethel in spite of his short standing at the bar, and when the case came on his argument proved irresistible. The following years were an unbroken chronicle of success, but they were years of enormous and of sordid labor. All his waking hours in term time were given to his profession; he had no leisure for society, little enough for the enjoyment of family life; his dinner was snatched at his chambers and is said to have never varied in quantity or quality—one mutton chop, one slice of stale bread, and a glass of water from Lincoln's Inn pump. In 1840 he applied successfully for a silk gown, and the rest of his time as a private member of the bar was devoted almost exclusively to advocacy, the gift of which, as exercised before an educated tribunal, he possessed in a degree which has never been surpassed, if indeed it has ever been equalled. Imperturbability, pertinacity, readiness of retort and self-possession are qualities which he shared with some of his contemporaries. Where he stood supreme was in the power of concise and lucid exposition, of marshalling his facts and his comments and his law in an order which was so logical that it seemed not merely appropriate but inevitable. Under his hand doubt vanished, the obscure became plain, the most tangled and intricate propositions were resolved into perfect simplicity. In Bethel's mouth a sophism or fallacy, which he would have torn to rags had it been used against him, was wont to assume the appearance of a self-evident truth. A story is told how on one occasion, through inadvertence or mistake, Bethel had drawn a bill in chancery against a client for whom he held a standing retainer. At the hearing of the suit his services were claimed by the defendant, and it was Bethel's painful duty to demolish his own handiwork. "Your Honor," he said, "of all the cobwebs that were ever spun in a court of justice, this is the flimsiest; it will dissolve at a touch." It did. By way of reparation and consolation he whispered, as he went out of court, in the ear of the solicitor who had first instructed him, "The bill is as good a bill as was ever filed."

The incomparable arts and graces of Bethel's forensic oratory were rendered all the more formidable by a sarcasm and an irony which he exercised without pity or remorse. If what he said was true he could not see why the subject of his observations should resent it, and there were few with whom he was brought in contact who came away unscathed The epigrams which seemed to come by instinct, his ingenuity in touching the raw spot, the exquisite appropriateness of the gibe to the victim, were allied with an unconcealed contempt for the world at large which rendered him superior to any attempt at repartee or interruption. The calculated insolence, the lisp, the studied syllabic articulation with which the punishment was meted out produced an effect analogous to that slow dropping of water on the tortured skull which was one of the refinements of mediæval atrocities. No one was immune, not the Court itself, nor the solicitors who had instructed him, least of all his juniors.

For many years after he donned his silk gown Bethel's annual income is said by Mr. Nash, his biographer, to have been nearer £30,000 than £20,000. While retained in nearly every appeal of importance which came before the Lord Chancellor or the House of Lords, he attached himself permanently to the court of Sir Lancelot Shadwell, the last "Vice-Chancellor of England." Over this amiable Judge and sound lawyer, the necessity of whose nature, according to Lord Selborne, it was to be governed by somebody or other, he established an absolute mastery, and in the exercise thereof he not infrequently abandoned even the semblance of deference, although in private life he was on terms of the warmest personal friendship with the Vice-Chancellor Rival leaders of the Equity bar used angrily to declare that before such a tribunal argument was a mere figure of speech; and Shadwell was facetiously likened to King Jeroboam because he had set up an idol in Bethel.

In April, 1851, Richard Bethel entered the House of Commons for the first time. He was a Peelite, so far as he was anything, but having been defeated in his first contest for a seat he presently became a Liberal and was returned for Aylesbury. Shortly before his election for this place he had been appointed Vice-Chancellor of the County Palatine of Lancaster, but this post he resigned on becoming Solicitor-General in the following year. As a law officer of the Crown he displayed the same aptitude for business and the same facility in mastering details which had marked his progress at the bar. What was more surprising, Bethel, now Sir Richard, displayed a conciliatory manner which greatly eased the wheels of debate. On Cockburn's appointment to the Chief Justiceship of the Common Pleas in November, 1856, Bethel succeeded him as Attorney-General. Henceforth he continued down to his resignation of the Great Seal one of the most dominant and picturesque figures in public life. When Lord Campbell died, in June, 1861, Sir Richard Bethel received the Great Seal, being raised to the peerage by the title of Baron Westbury. His promotion was accepted on all sides as a matter of course, but at the same time, in our author's opinion, a gentle thrill of relief must have fluttered the hearts of those Judges whom he had so long felt it his duty to keep humble. There is, Mr. Atlay thinks, no parallel for either the duration or the extent of Bethel's ascendency at Lincoln's Inn. From his earliest days he had adopted the principle "Never give in to a Judge," and he was equally inexorable whether he was arguing before one whom he loved and respected or one whom he disliked and affected to despise. His biographer, Mr. Nash, dismisses as a ridiculous invention the story that one of the Equity Judges begged of Sir Richard Bethel that he might at least be addressed as a vertebrate animal and with as much deference as heaven might be supposed to show toward a black beetle. The same authority, however, is prepared to accept Bethel's stage aside to his junior: "Take a note of that; his Lordship says he will turn it over in what he is pleased to call his mind."

Of Lord Westbury's character as a Judge somewhat conflicting estimates have been formed. In our author's opinion that of Mr. Macdonnell in the "Dictionary of National Biography" comes nearest the truth: "The judgments which he has left are in many ways unique. Our law reports contain no more perfect examples of precise and lucid statement, of concise reasoning or of polished English, and no Judge has striven more persistently than did Lord Westbury to bring every question to the test of principle and to restrain within due limits what seemed to him the excessive authority of precedents. "Judge made law" was his abomination, and his ideal would have been to give statutory authority to a limited number of clearly expressed propositions and then to determine by pure ratiocination whether a particular state of facts fell within them.

We pass over the Edmunds and Leeds cases, because, although they led to the acceptance of Lord Westbury's resignation of the post of Chancellor in 1865, public opinion acquitted him of corrupt motives, and because so highly were his services appreciated that more than three years later, when there was a vacancy for a Lord Justice of Appeal, he was sounded as to his willingness to resume a definite post on the judicial bench. He declined the offer; but it was renewed in the autumn of the following year (1869), and he was still for a while regarded as a possible candidate for the Great Seal. There is no doubt that the dignified and touching appeal which he uttered "in the dark hour of shame," when he laid down the office of Chancellor and took leave of the House of Lords in that capacity, won for Lord Westbury a place in the hearts of his audience and of his countrymen generally which he had never reached in the plenitude of his full blown dignity. The revulsion of feeling in his favor which then began has continued down to the present moment.

VI.

Hugh McCalmont Cairns, who was to be twice Lord Chancellor, was born in 1819 at Belfast and in his sixteenth year proceeded from the Belfast Academy to Trinity College, Dublin, where he was graduated in 1838 with a first class in classics and other distinctions. He had been destined for holy orders, but his tutor persuaded his father to send him to the bar and he was admitted at Lincoln's Inn in 1841. He was called to the bar in 1844 from the Middle Temple, whither he had migrated while retaining his membership of Lincoln's Inn. He began the practice of his profession without any "connection" whatever. His start entitled him to be regarded as a standing example of the industrious apprentice. While still an obscure junior he was briefed in a case with Bethel, who said of him at the time: "That young man will undoubtedly rise to the top of the bar." In 1852, while only in his thirty-third year, he was elected a member of Parliament for Belfast, and sat for the Ulster capital during the whole of his career in the House of Commons. When Lord Derby became Prime Minister for the second time, in 1858, he obtained as Sir Hugh Cairns the post of Solicitor-General, an office which he held rather more than fifteen months. During the next seven years he returned to the active practice of his profession, but his position on the front Opposition bench in the House of Commons became firmly assured. When Lord Derby formed his third and last Administration he appointed Sir Hugh Cairns Attorney-General, who thus found himself entrusted with an office which never before had been filled by any one not a native of Great Britain. His health, however, proved unequal to the strain of the "painfullest place in the kingdom," and a vacancy having occurred in the Chancery Appeal Court he accepted the appointment of Lord Justice and took his seat in the upper chamber as Baron Cairns of Garmoyle, County Antrim, having been sworn of the Privy Council.

It was while sitting in the Court of Appeal that he first established his judicial reputation. No sooner did Disraeli succeed Lord Derby (February, 1868) as head of the Conservative Government than he offered the Great Seal to Cairns, who proceeded forthwith to display on the woolsack the vigor and readiness which no physical infirmities could overcome. In December, 1868, he followed his party into retirement and assumed the formal leadership of the Opposition in the House of Lords, but on Disraeli's return to power in 1874 he became Chancellor for the second time. Mr. James Bryce, the present British Ambassador at Washington, though strongly opposed to Lord Cairns in politics, has pronounced him "unquestionably the greatest Judge of the Victorian era, perhaps of the nineteenth century." Mr. Benjamin—the ex-Confederate who attained so eminent a position at the English bar—speaking from an experience acquired in both hemispheres, declared Cairns the greatest lawyer before whom he had ever argued a case. From a religious point of view Cairns was a Puritan whom it seems easier to associate with the Great Protector than with Lord Beaconsfield. During the anxious months in 1878, when the nation seemed drifting into a second Crimean War, the wife of a Cabinet Minister asked Lady Cairns: "What is the secret of the Lord Chancellor's constant and unruffled calmness, which my husband tells me pervades the whole place as soon as he appears?" "It is this," was the reply; "he never attends a Cabinet without spending half an hour immediately beforehand alone with his God." It cannot be denied, however, that this "consistent walking," accompanied as it was with a strong tinge of austerity, had a narrowing effect, and placed him out of touch with many of his political allies and of the members of his own profession. He would probably have succeeded instead of Lord Salisbury to the headship of the Conservative party on the death of Beaconsfield but for the fact that he was entirely lacking in magnetism, and owing to his forbidding manner had never been able to acquire any personal following.

We must leave for another occasion some account of the last four of the Victorian Chancellors, Lord Hatherley, Lord Selborne, Lord Halsbury and Lord Herschell.

M. W. H.

The History of the English Customs Service.

Concerning a subject which at first sight might be deemed somewhat unpromising and arid a good deal of curious information is brought out in a volume called *The King's Customs*, by HENRY ATTON and HENRY HURST HOLLAND (E. P. Dutton and Company). This is an account of the methods of raising maritime revenue and of averting contraband traffic in England, Scotland and Ireland from the earliest times to the year 1800. The present narrative begins with the reign of Edward I., although there is no doubt that customs duties were levied in Britain in Roman, Saxon, Norman and Angevin days. When we bear in mind that the Phœnicians traded with Britain long before Cæsar's invasion and that there was also frequent commercial intercourse between the southern Britons and their kinsmen in Gaul we may be sure that the sanction of the maritime chiefs required for such traffic would not be given gratis, although there is no record of customs levied either in kind or in the rude coinage then current. Naturally commerce increased and became regular under Roman rule, the imports being munitions of war and such goods—for example, wine and spices—as could not be produced in Britain, while the exports were lead, tin, wool, hides, horses and cloths. As revenue was the chief object of Roman aggression and conquest it is unlikely that maritime commerce escaped exactions, although the rates of duty imposed and the modes of collection practised by the Romans in Britain seem beyond discovery.

The absence of any allusion to "customs" in the records and legends of the Heptarchy may be due to the fact that during the earlier centuries after the invasion by Angles and Saxons there was little English commerce. The southern ports, so thriving under the Romans, apparently retained but little of their ancient trade, but what there was is likely to have been subjected to slight port dues or occasional levies in kind by maritime reeves. We know that the maritime districts were assessed in "shipgeld" for the repair and maintenance of war vessels. A message from Charlemagne (800 A. D.) to one of the Saxon Kings is quoted in the records as conveying assurance of protection to English pilgrims visiting Rome, but with the stipulation that such as were merchants should pay the usual customs upon their wares. It is a fair inference that the Saxon monarch extorted a similar acknowledgment when the Pilgrim traders returned. That in somewhat later centuries English traders were occasionally adventurous is evident from Athelstane's grant of thaneship to every native merchant who had made three voyages to the Levant. As the inland exactions levied by William the Norman were immense and grievous, it is inconceivable that maritime commerce should have escaped. There is reason to believe, however, that up to the reign of Henry I. the amount of silver available was so small that most of the taxes were collected in kind. From the accession of Henry I., however, to the promulgation of Magna Charta, most of the royal impositions were payable in coin. The maritime exactions at this epoch may be distinguished as prisage, the maltolte and ancient custom. By prisage must be understood the appropriation of a portion of merchandise at or before landing or shipment. In the port of London the goods were usually taken by the Chamberlain, ostensibly for the use of the King's household. The maltolte was an occasional heavy tax in coin upon merchandise and was enforced at the larger ports by "customers," or collectors. The so-called ancient custom was a systematic tax in coin on exported wool, woolfells and leather. There is reason to think that the act of Edward I. (1275) dealing with this subject merely ratified a long standing tax. The collection of the custom on wool was for some time entrusted to the Lucca merchants, from whom, as from other Italians, Edward I. and his successors borrowed a good deal of money.

In 1308 the Italian guilds controlled the entire customs revenue of England. It is practically certain that the net customs revenue of England up to the end of Elizabeth's reign rarely approached £100,000 a year, though of course the comparatively great value of money in mediæval times must be taken into account. In 1680, on the other hand, the net yield of the customs in the port of London was about £555,000 and that of all the other English ports about £137,000. From 1789 to 1796, inclusive, the average annual net produce of the English customs was about £4,150,000. The cost of collection was about 6¾ per cent. of the gross receipts. The proportion of the gross yield of the Scottish to that of the English customs was in 1796 as 1 to 23. The returns of Irish revenue are vague and full of contradictions. On the whole, however, the income derived from this source seems to have swelled gradually from £150,000 in 1688 to £1,560,000 in 1801.

In an appendix entitled "Customs Literati" are set forth the data relating to the connection of Chaucer, John Dennis, William Congreve and Adam Smith with the customs service. Chaucer's total income, mainly drawn from offices in the London custom house, is computed to have amounted at one time to about 150 marks, or, say, £1,500 in modern money. Congreve was one of the five under searchers in the port of London and held another office in the customs, both of which seem to have been practically sinecures. In 1705 John Dennis was appointed Queen's waiter in the port of London, but in 1715 he sold this post in the customs. Adam Smith, the author of the "Wealth of Nations" and of the "Theory of Moral Sentiments," had been since 1751 professor of logic and moral philosophy at Glasgow University, but in 1778 he was made a Scottish commissioner of customs, with a salary which certainly was not less than £500

FLYING THINGS.

The Eagle and the Condor Not in It With Steadily Flying Time.

"The eagle and the condor can certainly fly some, but," said the man with frost in his hair, "they don't begin to be in it with steady going time.

"You see, the eagle and the condor have to rest once in a while, while time keeps a-plugging right along—there's something uncanny about the flight of time.

"And not only does it keep going so, but as we grow older it seems all the time to be speeding up; going steadily faster and faster. You know how when we were young the days seemed long and the seasons interminable and the years without end? While now the mornings come and go and the weeks fly by and the years we count with little halt between, they go so fast; and what with my increasing years and the seeming quicker flight of time as we grow older I find myself now, for the first time in my life, in sight of the end; and this is a new and serious awakening and an impressive sensation.

"You see, when we are young, still on the upward slope of life, not yet to the top of the hill, the whole world seems to us yet to come and we advance to greet it joyfully, and then when at middle life we get to the top of the hill it spreads out all around us, and of the end we never think; but as we go down the other slope there comes, as I find there has come gently to me now, a time when we realize that our prospect is gradually but surely narrowing.

"To be sure we give ourselves every year we can; we are going to be long lived; not cut off at 70 or 80 or 90, we are going to live to be a hundred anyway, as we do not doubt; but even so we have passed the summit, we have lived the greater number of our years, and we are drawing now on the steadily diminishing remainder; and when that idea once strikes you squarely so that you take it in it gives you something to think about.

"But not to worry over, not the least little bit. You still have your work to do, haven't you? Why, sure, and you find in it and in every breath you draw a greater joy than ever. Life is mellower and riper and fuller of happiness. You don't waste time worrying over trifling things. You come to have wings of your own now too, on which you mount to take a wider survey, to see with a clearer vision, and you come back to your own corner with a contentment you never had before, a kinder charity.

"Life is pleasant on this slope, very pleasant; but I do wish I could invent some sort of brake to check the fight of time. Talk about eagles and condors! They are not in it for flying with time!"